

**REMARKS**

The present amendment is in response to the Final Office Action dated February 8, 2005, where the Examiner has rejected claims 1-23 application on the basis of new ground(s) of rejection and newly cited art. By the present amendment, claims 1, 5, 10, 15, 20, and 21 have been amended. Claims 1-23 are pending in the present application. Reconsideration and allowance of pending claims 1-23 in view of the amendments and the following remarks and withdrawal of the finality of the rejection of the Office Action dated February 8, 2005 are respectfully requested. The applicant respectfully requests that the Examiner enter these Amendments and consider these Remarks in reconsidering the outstanding rejections.

Pursuant to MPEP §714.12, the applicant submits that these amendments are necessary, and could not be presented earlier as they are responsive to rejections first made in the final office action. A good and sufficient reason why the present response is necessary and was not earlier presented is that entirely new references have been cited in the present final rejection dated February 8, 2005 (37 CFR 1.116(c)). The new references are Lee (USPN 6,532,413) ( "Lee '413") and Peng (USPN 6,816,944) ("Peng '944") which is for the first time brought to applicant's attention by means of the present ***final rejection*** dated February 8, 2005. The new references, i.e., Lee '413 and Peng '944, were not cited in the present application prior to the instant final rejection. Since Lee '413 and Peng '944 are primary references upon which the Examiner have now relied, applicant believes that it would be manifestly unfair for the Patent Office not to consider applicant's arguments which are necessitated due to the newly cited references, Lee '413 and Peng '944 (37 CFR 1.116(c)), for considering applicant's present amendment and response and withdrawing the finality of the present Office Action.

**A. Rejection of claims 10, 12, and 14 under 35 USC §102**

In paragraphs 1 and 2 of the office action, the Examiner maintains the rejection of claims 10, 12, and 14 under 35 USC 102(b) as being anticipated by Nordwall (USPN 6,097,943), and references the rejection made in paragraph 2 of the office action mailed August 12, 2004. Applicant respectfully disagrees; however, to expedite the prosecution of the present application, applicant has amended independent claim 10 to include the steps of “providing a non-volatile memory in an accessory”, and “storing data version ID in the non-volatile memory ...”.

As noted by the Examiner in Paragraph 5 of the office action, Nordwall fails to disclose a non-volatile memory for storing an accessory version ID. Since the applicant has amended claim 10 to include limitations that the examiner has not found in Nordwall, the applicant submits that Nordwall cannot anticipate claims 10, or claims 12 and 14 depending therefrom.

**B. Rejection of claims 1-4 and 15-19 under 35 USC §103**

In paragraphs 3-5 of the office action, the Examiner rejects claims 1-4 and 15-19 under 35 USC 103(a) as being unpatentable over Nordwall (USPN 6,097,943) in view of Lee '413. The applicant respectfully submits that amended independent claims 1 and 15 have limitations that are not disclosed or suggested by Nordwall and Lee, either alone or in combination. Accordingly, the applicant believes that no prima facie case of obviousness can be sustained for claims 1-4 and 15-19.

The applicant has amended independent claim 1 to indicated that the non-volatile memory is constructed to store the control data without connection to the communication device. In a similar manner, applicant has amended independent claim 15 to show that the memory is configured to store control data without connection to a communication device. The accessories of claims 1 and 15 are constructed to provide an efficient structure for making proper control data available to a communication device. *See Specification, paragraph 13.* This

accessory structure enables new accessories to be introduced, or existing accessories to be improved, with the new or modified accessory control data provided by the accessory itself. *See Specification, paragraph 13.* The accessory memory comes with the control data tailed to allow a communication device to download and operate the control data. *See Specification, paragraph 14.* In this way, the accessory has the new or improved control data already stored in the accessory memory, without connection to the communication device. *See Specification, paragraph 14.* For example, an electronic device may be sold with pre-stored control data. At a later time, a new accessory may be introduced, and the existing control data in the electronic device is no longer up to date, and will not fully operate the new accessory. *See Specification, paragraph 13.* Using the accessory structure of claims 1 and 5, new or improved control data is provided in the accessory itself. *See Specification, paragraph 14.* Stated differently, the accessory itself becomes the vehicle to distribute new or improved operating software or control data to the communication device. More particularly, the accessory holds or stores the new or improved control data, without ever connecting to the communication device it may eventually operate with. When the accessory is eventually connected to the communication device, then the new or improved control data may be transferred from the accessory to the communication device. *See Specification, paragraph 15.* After uploading the control data from the accessory, the communication device may use the new or improved control data to operate or control the accessory. *See Specification, paragraph 15.*

Nordwall fails to disclose or suggest any structure that has an accessory with memory configured to store control data “without connection to its communication device”. Instead, the Nordwall device has a memory for storing parameter values calculated by the processor in the communication station (see, Nordwall, Abstract). Thus, it is only after connection to the communication device that the parameter values are generated, and the parameter values are generated by the communication device. *See, Nordwall, col. 2, lns. 54-64.* The generated parameter values are then passed to the accessory for storing. *See,*

*Nordwall, col. 2, Ins. 64-68.* Further, the values stored in the Nordwall accessory are values that have been calculated by the mobile subscriber unit which are set according to the environment in which the accessory is used. *See, col. 2, In. 61 to col. 3. In. 12.* Since the Nordwall values are calculated according to a current environment or condition, the values can not exist prior to connection and communication with a communication device. In this way, the processor in the mobile unit does not have to recalculate these parameters on subsequent connections to the accessory. *See, col. 6, Ins. 20-24.*

Lee does not overcome the deficiencies cited for Norwall. Instead of disclosing the limitations of claims 1 and 15, Lee has a communication mobile unit 2020 that has a receiver 2031. *See, Lee, Fig. 20B and col. 31, In. 35 to col. 32, In. 36.* The mobile unit 2020 stores a TSI master file, and updates it based on the received TSI. *See, Lee, Fig. 20B and col. 32, Ins. 3 to 6.* More particularly, in the mobile unit 2020, the traffic information is wirelessly received, and used to update the master file in RAM 2025 of the mobile unit. *See, Lee, Fig. 20B and col. 32, Ins. 22 to 30.* When the body unit 2040 is connected to the mobile communication unit 2020, then the updated TSI information is passed to the body unit 2040. *See, Lee, Fig. 20B and col. 32, Ins. 9 to 12.* Figures 25A, 25B, 26, and 27 further detail communication between the mobile unit 2020 and the body unit 2040. Each of the four examples is described below:

1. As shown in Fig. 25A, and described at col. 34, Ins. 41-45, the body unit receives the updated TSI file from the mobile unit 2020;
2. As shown in Fig. 25B, and described at col. 34, Ins. 46-50, the body unit receives the updated TSI file from the mobile unit 2020;
3. As shown in Fig. 26, and described at col. 34, Ins. 54-60, the TSI file is updated according to received TSI from the mobile unit 2020; and
4. As shown in Fig. 27, and described at col. 34, In. 65 to col. 35, In. 9, the body unit receives the TSI file from the mobile unit 2020.

Thus, none of the detailed descriptions of communications between the mobile unit 2020 and the base unit 2040, as discussed above, disclose an accessory that has a memory configured to store control data without connection to the communication device. Since neither Lee nor Nordwall disclose this limitation, the cited references are incapable of rendering claims 1-4 and 15-19 obvious.

**C. Rejection of claims 5-9 and 20 under 35 USC §103**

In paragraph 6 of the office action, the Examiner rejects claims 5-9 and 20 under 35 USC 103(a) as being unpatentable over Nordwall (USPN 6,097,943) in view of Peng '944). The applicant respectfully submits that amended claims 5-9 and 20 have limitations that are not disclosed or suggested by Nordwall and Peng, either alone or in combination. Accordingly, the applicant believes that no prima facie case of obviousness can be sustained for claims 5-9 and 20.

The applicant has amended independent claim 5 to include the step of "storing accessory control data in the accessory without connection to the electronic device". In a similar manner, applicant has amended independent claim 20 to include the structure of "means for storing control data located in an accessory without connection to the communication device...". For the reasons similar to those discussed in Section B, above, the applicant submits that Nordwall fails to disclose all the limitations in independent claims 5 and 20, including limitations directed to storing control data in an accessory without connection to a communication device. Further, the applicant submits that Peng does not overcome the deficiencies cited for Norwall. Instead of disclosing the limitations of claims 5 and 20, Peng merely provides a system for updating files in a mobile device by wirelessly downloading data directly to the mobile device, and selectively updating files. *See Peng, col. 2, Ins. 47-64*. Thus, Peng does not teach or suggest storing control data in an accessory, and using the accessory to provide updated control data to the electronic device. Accordingly, the applicant respectfully submits that claims 11 and 13 are not rendered obvious over Nordwall in view of Peng.

**D. Rejection of claims 11 and 13 under 35 USC §103**

In paragraph 7 of the office action, the Examiner rejects claims 11 and 13 under 35 USC 103(a) as being unpatentable over Nordwall (USPN 6,097,943) as stated in paragraph 4 of the August 12, 2004 office action.

Referring to the discussion in sections A and B, the applicant submits that Nordwall fails to teach or suggest all the limitations of claims 11 and 13. For example, Nordwall does not disclose “providing a non-volatile memory” as discussed in Section A, and does not teach or suggest an accessory “storing data in the non-volatile memory without connection to the communication device”, as discussed in Section B. Since Nordwall does not teach or suggest all the limitations of claims 11 and 13, the applicant submits that a prima facie case of obviousness can not be sustained. Accordingly, the applicant respectfully submits that claims 11 and 13 are not rendered obvious by Nordwall.

**E. Rejection of claims 21-23 under 35 USC §103**

In paragraph 8 of the office action, the Examiner rejects claims 21-23 under 35 USC 103(a) as being unpatentable over Nordwall (USPN 6,097,943) in view of Lee (USPN 6,532,413) and Peng (USPN 6,816,944). The applicant respectfully submits that amended claims 21-23 have limitations that are not disclosed or suggested by Nordwall, Lee, and Peng, either alone or in combination. Accordingly, the applicant believes that no prima facie case of obviousness can be sustained for claims 21-23.

The applicant has amended independent claim 21 to include “an accessory memory configured to store control data without connection to the communication device.”. For the reasons similar to those discussed in section B, above, the applicant submits that Nordwall fails to disclose all the limitations in claim 21, including limitations directed to storing control data in an accessory without connection to a communication device. The applicant also submits that Lee does not overcome the deficiencies cited for Norwall, for reasons similar to

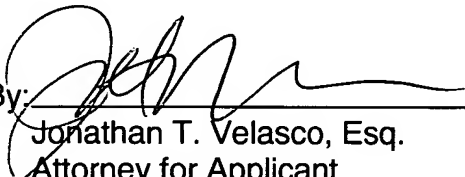
those discussed in Section B. Further, the applicant submits that Peng does not overcome the deficiencies cited for Norwall, for reasons similar to those discussed in Section C. above. Accordingly, the applicant respectfully submits that independent claim 21, and its dependent claims 22 and 23 are not rendered obvious over Nordwall in view of Lee and Peng.

**F. Conclusion**

For all the foregoing reasons, an allowance of claims 1-23 pending in the present application is respectfully requested.

Respectfully submitted,

Dated: APR. 6, 2005

By:   
Jonathan T. Velasco, Esq.  
Attorney for Applicant  
Reg. No.: 42,200

Jonathan T. Velasco, Esq.  
Kyocera Wireless Corp.  
Attn: Patent Department  
P.O. Box 928289  
San Diego, California 92192-8289  
Tel: (858) 882-3501  
Fax: (858) 882-2485